NATIONAL INTELLIGENCER.

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.THE GALPHIN CLAIM.

Want of room has hitherto prevented our publishing the Report of the Select Committee of the House of Representatives upon the so-called "Galphin Claim," which we now present to our readers, and with it the Report of the Minority of that Committee, and the Opinion of the Attorney General upon which the claim for interest was allowed. To which, for the better understanding of the facts of the case, we append the Report of the Senate's Committee on the Judiciary on the same subject, in the year 1846.

There are two other separate Minority Reports of the same Select Committee, one by three Members, and one by two Members, making seven columns more, which we cannot find room for, at present at least. The two that are given embrace, it is presumed, a fair statement of the merits of the case.

REPORT OF THE COMMITTEE.

The Select Committee to whom were referred a communication from the Hon. GEORGE W. CHAWFORD to the Speaker of the House, of 2d of April, in the following words: "My official connexion with the Government authorizes me, in my judgment, to ask, and have acceded to me by the House over which you preside, a prompt and full investigation, in such enanner as it may think proper, of my conduct and relation to the claim of the representatives of George Galphin, which claim has been adjudicated and paid at one of the Departments of the Government, and is now attracting public attention:" and a resolution of the House, of the 12th of the same month, instructing them "to make full investigation and report to this House the origin and nature of said claim, the circumstances attending its prosecution before the Departments of Government, and the passage of the bill authorizing the payment of said claim; the names of agents who have so the State of Georgia, and they made a report against its payprosecuted and urged the same; the amount paid on said men the state of deorgia, and they made a report against its paymen the state. Their report was committed to a committed to a committee of the House of Representatives of that State in 1839, has been paid in conformity with law or precedent; the names and the committee approved the report of the commissioners of the individuals to whom the money has been paid, and the amount received by each; the interest of the persons so receiving said money-said claim; and how said interest in claim of Galphin by the United States. These resolutions said claim has originated to each of said persons; and all matters in anywise pertinent to the inquiry "-have made full and diligent inquiry touching the whole subject, and submit the following REPORT

Prior to the year 1773, George Galphin, the original claimant, was a licensed trader amongst the Creek and Cherokee Indians in the province of Georgia. These Indians became indebted to him and other traders in large sums of money George Galphin held against them demands in his own right and as assignee of other traders. The Indians are represented to have been destitute of the means of paying these debts without selling a part of their lands, and in 1773 they ceded, for this purpose, to George the Third, King of Great Britain, a tract of healthy and fertile country, containing about two millions five hundred thousand acres. The tract was accepted, and commissioners were appointed to sell the lands and pay the debts due to the traders. The lands were considered ample for that purpose; but the king carefully protested that the Government of Great Britain should not be liable for any part of the debts of the traders, in the event of the lands producing an insufficient fund. In that case they agreed to lose in proportion to the amount of their debts. The raders, in consideration of the cession of the lands by the Indians, released their demands against them. Commissioners were appointed to sell the lands and apply the proceeds to the payment of the debts. The Governor and his Council ascertained the sums due the traders respectively, and found due to George Galphin nine thousand seven hundred and ninetyone pounds fifteen shillings and five pence. For this sum a certificate was issued to him, dated the 2d day of May, 1775. The Commissioners disposed of a portion of the lands, but how much does not appear, and applied the proceeds to the payment of expenses which had been incurred in making the cession, and in performing their duties under it. They applied none of the money to the debts of the traders. George Galphin received nothing from them. Meantime the war of the revolution commenced, and by its successful result the execution of the trust was defeated, and the lands themselves were no longer subject to the control of the king.

The State of Georgia, in 1777 and subsequent years, granted to actual settlers, and to solders who had been faithful to the cause of independence, considerable portions of her vacant fands, including the lands which had been ceded by the Indians for payment of their debts to George Galphin and others. But no means are accessible of ascertaining the quantity or value of these, or the other vacant lands which Georgia granted as bounties to revolutionary soldiers, although there is evi-Gence that a considerable portion of the lands ceded by the Creeks and Cherokees in 1773 was thus applied.

The fidelity of George Galphin to the cause of inde dence having been made a question, the committee made full inquiry into the matter, and are quite satisfied that he promptly and firmly refused to take the side of the Crown, and was decided advocate and supporter of the independence of the colonies. His great influence with the Indians caused them to resist the importunities of England and refrain from taking part in the war. He was especially and peculiarly the means of averting, to a great extent, from Georgia and Carolina, the cruelties and atrocities of Indian warfare. In 1790 Great Britain made an appropriation for the payment of the debts of the traders with the Indians, although the lands which and been conveyed for the purpose were no longer subject to her jurisdiction. An act of the Legislature of Georgia, passed at Augusta the 23d of January, 1780, asserted the right of that State to the lands which were ceded to the king of Engfand in 1773, and provided "that any person having, or pre tending to have, any such claim, do lay their claims and accounts before this or some future house of Assembly to be ex-Whatever claims shall be found just and proper, and due to the friends of America, shall be paid by treasury certificates for the amount, payable within two, three, and four years, and carrying six per cent. interest." George Galphin died in 1780. Thomas Galphin, his son and executor of his will, presented his claim to the Legislature of Georgia in 1789, and a favorable report was made upon it by the committee; but the report was not acted upon by that Legislacure. In 1791 he sent an agent of intelligence and influence to England to present it to the Government : but it was rejected because George Galphin had been a friend of America sa the revolution. After its rejection by the Government of Great Britain, it was again presented to the Legislature of Georgia in 1793. The committee to whom it was referred reported "that the debt and demand of Mr. Galphin's estate ought to be provided for agreeably to the act of Assembly of this State, passed 23d January, 1780, as being not only plain-By within the meaning and letter of that act, but also fully substantiated as a debt against the State, which has sold and disposed of the lands' ceded for the payment thereof to its own made itself liable for the same on every principle of justice and equity;" and they recommend "that audited certificates should be directed to be issued to the memorialist's attorney and agent for the sum of nine thousand seven hundred and zunety-one pounds fifteen shillings and five pence sterling money of Georgia." This report was agreed to by the Senate. A committee of a subsequent Legislature reported that the claim of George Galphin was clearly just, and was provided far by the act of 23d of January, 1700, and recommended that especial provision be made for the payment of nine thousand seven hundred and ninety-one pounds fifteen shillings and five pence. The committee of another Legislature reported as follows: "It appears to your committee that this claim is based upon justice and equity; that it is recognised by the act of 1780, and that it is the obligation of the State to discharge it, which the honor and honesty of the State impase;" and recommended "that there be paid to the beire, executors, and legal representatives of George Galphin, deseased, their agent or attorney, the sum of nine thousand seven hundred and ninety-one pounds fifeen shillings and five pence, with so much interest as may be considered just and equitable from the date of the certificate." A committee and equitable from the date of the certains. A community of another Legislature reported: "Impressed with the justice of claims similar to Mr Galphin's, the Legislature of this State, in the year 1780, did pass the act set forth in the memorial, thereby not only having assumed the dob', but guarantying its payment with interest; that the memorialist, shortly after the establishment of Independence, applied to the Gen eral Assembly of this State to comply with their solemn engagements, but the funds of the country being small, and a report having gained ground that a provision for the discharge of such claims had been made by Britain, the memorialist was in the first instance referred to Great Britain;" and they recommended "the propriety of making such arrangements for claim as may at once demonstrate the high estimation in which patriotic services in the revolutionary war are at this day held, and evince the justice of the State Georgia." A committee of the Legislature, in 1827, recommended the payment of the debt, in certificates bearing six per cent. interest, from the 31st of December, 1791, as the State of Georgia had appropriated the lands charged with this debt by granting them to ber citizens. In 1813 a committee of etraction put upon the act of 1799 by the memorialist. It

the time of its passage. This does not appear to be the case of the memorialist. Your committee, from the whole view of the case, are compelled to report that the claim of the memorialist is not well founded against the State of Georgia;" but they add the claim is just against Great Britain. This report

was agreed to by the Senate.

In the treaty of New Echota, concluded with the Cheroka Indians in 1835, provision was made for the payment of this claim by the United States, but without expense to the Indians. This provision was rejected by the Senate, and the treaty ratified without it. In May, 1836, the Senate of the United States instructed its Committee on Indian Affairs to inquire into the propriety of paying this claim. That committee reported a resolution, which was adopted by the Se-nate, requesting the President of the United States to apply to the executive of Georgia for all the information which that State could furnish on the subject of this claim. In January, 1837, the President communicated to the Senate the information he had received. In his reply, Governor Schley informs the President that the following facts may be taken as true: "That there is justly due to the heirs of George Galphin the sum of nine thousand seven hundred and ninety one pounds fifteen shillings and five pence, sterling money of Great Britain; that by the treaty of 1773 this claim was provided for, and became a debt due by the British Government to Mr. Galphin; that Mr. Galphin failed to receive payment from that Government because he had espoused the cause of the United States, and was, in the estimation of the English, a rebel; that neither he nor his heirs have ever received payment from Georgia or the United States; and the true ques tion now is, whether Georgia or the United States ought to pay the money. It is true that the lands acquired from the Cherokee Indians by the treaty of 1773 being within the jurisdictional limits of Georgia, were subject to her disposition; and it is also true that a considerable portion of them was granted as bounties to the soldiers of the revolution. George Galphin was a true Whig, and rendered important services to the cause of independence, not for Georgia alone, but for all the States. His claim was not against Georgia, but originally against Great Britain, and subsequently against the Inited States; because it arose under a treaty stipulation, the fulfilment of which devolved, by a change of government, not on Georgis, but on the Government of the United States, which had succeeded to that of Great Britain, receiving the benefits and bearing the burdens. The claim of Mr. Galphin has always been considered just by Georgia, but she has deni-ed that she is liable to the payment of it, and has therefore uniformly refused to do so, although there have been some reports made by committees of one or the other branch of the

Legislature, recommending the payment by Georgia."

Commissioners were appointed to examine this claim by The House agreed to their report. Resolutions were then offered in the House, requesting the Senators and Representatives of the State of Georgia to urge the payment of the known to them his interest or agency in the claim nor were were laid on the table.

In 1840 a committee of the House of Representatives the Georgia Legislature made a report in favor of the claim, and recommended the payment of interest on the same from 1793. A minority of the committee of one made a report adverse to the payment of the claim by Georgia. The House agreed to the minority report. A resolution instructing the elegation in Congress to urge the payment of the claim by

the United States was then introduced. The committee do not find that any further or subsequen roceedings were had in the Legislature of Georgia on the

In 1838 the Senate Committee on Indian Affairs reported that if the trust fund, at the close of the Revolution, had inured to the benefit of the United States, or if, by virtue of the Revolution, they had acquired the power to dispose of it, there ought to be no hesitation in satisfying this demand out of the Pressury of the United States; but this was not the case. The fund was land: this land was situate within the limits f one of the United States. The State where it was situate acquired the control over it, and had a right to dispose of it, when and to whom she pleased, and to apply the proceeds according to her own pleasure, without consulting the Government of the United States. As the Government of the United States acquired no title to this land, and no power to carry into effect the trust, or in any way to control the fund, the ommittee can see no ground upon which they are authorized o recommend its payment." This report does not appear to This claim was presented to the House of Representatives the 9th of January, 1844, and referred to the Committee of

Claims. That committee made no report upon it. The Committee on the Judiciary of the Senate made a report the

7th of July, 1846, in favor of this claim, accompanied by a bill for its payment. This report and bill do not appear to have been acted upon by the Senate. A favorable report, accompanied by a bill, was made by the same committee Senate in 1847. The bill was sent to the House of Representatives the 8th of February, 1847, and referred to the Committee on the Judiciary the 19th of the same mouth. The 24th of the same month the bill, accompanied by an unacted on by the House. This report proceeded on the grounds "that no part of the property conveyed, for the purpose of creating a trust fund to pay the debt of the petitioner, had ever inured to the benefit of the United States, and that the whole benefit of the fund had been received by the State of Georgia, which could apply the proceeds to the payment all equitable claims upon it, whereas the United States had no power to centrol the fund or execute the trust." A bill the payment of this claim passed the Senate early in the on of the thirtieth Congress, and was sent to the House of Repres ntatives the 19th of January, 1848. The 21st of that month it was referred to the Committee on the Judiciary, who reported it to the House the 29th of February, 1848. The Senate report, which accompanied this bill, was based on the grounds that the claim was established by the commissioners appointed to dispose of the lands which had been ceded by the Indians to pay the debts due to the traders; that there could be no question as to the justice of the claim; that the revolution which George Galphin had contributed to effect, and which wrested these lands from the Crown of Great Britain, was the act of all the States, and not that particularly of the State of Georgia; that the Government of the United States succeeded to all the obligations which rested on the Crown, as far as claims of a character similar to this were concerned; that the lands charged with these debts had been appropriated to the public d fence, and as bounties to the offi-cers and soldiers of Georgia who served in the war of the Revolution. They further maintained that the principles on which the United States, in 1832, assumed the payment of certain claims for which Virginia had become liable to her revolutionary officers, embraced this claim. The House committee made no written report, and are supposed to have re-commended the passage of the bill, for the reasons assigned n the report of the Senate committee. The bill thus reported to the House was committed to the Committee of the Whole House, as are all private hills, under the rules. The bill remained on the private calendar and in the Committee of the Whole House until Saturday, the 12th of August, 1848. On that evening, about 8 o'clock, on motion by Mr. Rockwell, chairman of the Committee of Claims, the House reso ved itself into the Committee of the Whole House, to consider Senate bills on the private calendar to which there should be no objection. Those bills were taken up in their order. and this amongst them. It was acted upon in the Commit-tee of the Whole House without debate, on a division of the committee. If a single member in the committee had object d, the bill could not have been reported to the House. the House the bill was passed, with several others, without a separate vote being demanded by any member, or taken by he House. From a minute and thorough investigation the circumstances attending the action of the Committee of the Whole House and of the House itself on this bill, the committee are satisfied there was nothing improper, irregular, or unusual in the conduct of the members or clerks, or other

officers of the House in relation to it, and that it passed in the regular and usual mode.

In investigating his relation and conduct to this claim, the committee deemed it their duty to request Governor Crawford to appear before them, and make such statement as would enable them to understand his connexion with this claim, and as he should think proper on his own part. He did appear, and made a statement, which he subsequently reduced t writing; and also answered inquiries proposed by the committee. From his statements it appears that he became cuted by Milledge Galphin, executor of Thomas Galphin, who was the son and executor of George Gaiphin, the 7th of February, 1833. By agreement between the parties 23d May, 1835, he was entitled to receive for his services, with out any other charge to his principal, one half of the whole claim, or of such part of it as should be realized. A supplemental agreement by the parties, explanatory of the foregoing, was entered into the 19th of January, 1835, by which it was stipulated that the pecuniary advances and professional ser-vices of Governor Crawford should be the consideration for one-half of the nett profits of the claim; and that all advances to, or contracts made by him with other persons concerning the claim, should be deducted from the sum to be re-alized from the claim before its division. Governor Crawford endeavored to obtain payment of the claim by the treaty of New Echota with the Cherokee Indians in 1835. Patting n that, it was presented to the Legi-lature of Georgia in 1837, and continued to be urged before the Legislature of that State until 1842. During that period, excepting the year 1841, Governor Crawford was a member of that body, avowed his interest in this claim, and urged in debate its pay ment, but declined to vote upon it. In May, 1848, be a rived in this city on his way to the Philadelphia Convention and remained about a day; and on his return from Philadel phia he reach d this city in the morning, and departed for his residence in Georgia that night. He did not again visit the Legislature reported: "Your committee differ in the con-struction put upon the act of 1799 by the memorialist. It from it when the bill passed the Senate and the House of saget, in the opinion of your committee, appear that the act of Representatives. In February, 1849, he sgain came to this

1799 can only apply to such claims as were unsscertained at ; city. In March following he entered upon the duties of Secretary of War, and from that time he took no steps to prose cute the claim for interest until he was urged to do so principal. As his interest was contingent and secondary, he did not think he could refuse to have it urged as desired About the middle of May, 1849, he disclosed to the President the condition of the claim, and his relation to it; that he had been prosecuting it before Congress and elsewhere since 1833; that it had been allowed by Congress, was pending before the Treasury Department, and he had an interest in it. He did not state the character or amount of the claim, the extent of his interest in it, or the name of the claimant; nor did he enter into any of the details of the claim. The President replied that, in his opinion, none of the pre-existing individua rights of Governor Crawford had been curtailed by his accept ance of office. He employed Judge Joseph Bryan to prose-cute the claim, and promised him three thousand dollars if the claim should be allowed and paid. He supervised and aided in preparing Mr. Bryan's arguments in support of the claim; but denies that his interest in it was, at any time before the payment of the claim, made known to any officer of the Government who was charged with its adjustment, by his authority or with his consent.

On the 8th of May, Governor Crawford addressed a com munication to the committee, informing them that he desired to state a conversation of his with the President, in March, 1850. From this statement it appears that, in the latter conversation, the President had the impression, from the first conversation, that the claim was before Congress, although, as to this, his memory was indistinct, the matter having as to this, his mind, until the claim attracted public notice; that the President told Governor Crawford, although he did not recollect to have been told by him that the claim had been allowed by Congress, and was pending before the Treasur Department, yet he did not see, if he had been so informed how he could have given any other opinion than he had given that, being at the head of the War Department, and agent of the claimants, did not deprive him of the rights he may had as such agent, nor would have justified him in having the examination and decision of the claim by the Secretary of the Treasury suspended. The President added that, in his opinion, if the claim was a just one, under the law of Congress, it should have been paid, no matter who were the partie

interested in it; and that this was due to the credit and good faith of the Government.

The decision of the question of interest on the claim by Mr. Walker, the late Secretary of the Treasury, was arged by Governor Crawfo d, and some of his friends insisted on it with so much earnestness as induced Mr. Walker to conclude that Governor Crawford would be a member of the present Cabinet. Governor Crawford alluded to it on one occasion, in connexion with the Attorney General, as one in which some of his Georgia friends were concerned, but only to ask him to examine it at his leisure. He alluded to it three or four times in conversation with Mr. Meredith, before its decision, but only to ask that it might be decided without delay. Mr. Johnson, Mr. Meredith, and Mr. Whittlesey tesified that they informed of it by any other person, whilst itwas undecided; and there is no evidence before the committee to the contrary. The bundle of papers relating to the claim was sent by the Comptroller to the Secretary of the Treasury, and by him to the Attorney General. Amongst then was the power of attorney, already referred to; another fron Milledge Galphin to Governor Crawford, dated 30th December, 1848; and one or two letters written by Governor Crawford to some officer of the Treasury Department, in the month of Februsry, 1849. Neither of these papers stipulated any coopensation for his services. Judge Joseph Bryan appeared on all occasions as the agent and counsel of the claim, and sibmitted all the arguments in support of it. No other personwas knows to the officers of the Government as agent or coursel for it.

The committee have not been able to discover any evidence that Governor Crawford ever availed himself official position, or of the social relations it established between himself and the other members of the Cabnet, to influence the favorable determination of this caim. claim was never the subject of Cabinet deliberation; and it is due to candor and truth that the committee express their conviction that nothing has been disclosed by the testimony to induce them to believe that the Secretary of the Treasury or the Attorney General were aware, until the claim had been adjudicated, that Governor Crawford had any agency or interest in it.

There was nothing unusual in the circumstanes attending the adjustment or payment of the principal or interest of this claim, nor any departure from the ordinary course of business in the Treasury Department.

A draft for the principal-being forty-three housand five hundred and eighteen dollars and ninety-sever cents-was delivered by the Hon. A. H. Stephens to Governor Crawford, in the city of Augusta, Georgia, early in Narch, 1849. From that sum was deducted seven hundred and fifteen dollars, composed of the following items, to wit: Five hundred dollars paid to the legal representatives of an agent, who died in 1841, for services prior to his death, one hundred and fifty dollars to an agent in Georgia, for services in 1834; and sixty-five dollars for transcripts of records and the collection of testimony in Georgia. Of the residue, Governor Crawford retained twenty-one thousand four hundred and one dollars and ninety-eight and a half cents-being one-half; and the other half he paid to Milledge Galphin, executor of Thomas Galphia, by whom it is believed to have been promptly paid to the legatees of George Galphia.

following is a statement of the amount of the interest, and how and to whom it was paid : A statement of the interest paid on the Galphin claim. Interest on \$43,518.97, for 73 years, 3 months, and 12 days. \$191,352 89 Less fee of Joseph Bryan 3,000 00 Less one half under contract with G. W. Craw-

ford..... Less commissions of Dr. Galphin, as executor 4.708 89 of George Galphin, at 5 per cent...... \$89,467 62 One-third due Ann Milledge, executrix, under award, &c.....(a) Balance to heirs of T. Galphin..... \$59,645 08 (a) \$29,822 55 Of Dr. Galphin, as executor, &c .-\$1,000 00 63,353 90 In cash..... In treasury draft, (No. 6,924).....

\$64,353 90 GEO. W. CRAWFORD, Agent, &c. WASHINGTON CITT, MARCH 2, 1850.
Approved: MILLEDGE GALPHIN, Executor of Geo. Galphin, dec'd. Mrs. Ann Milledge, who received one-third, is the widow and executrix of John Milledge, whose first wife was the daughter of George Galphin. The relation of Milledge Gal-

phin to George Galphin has been previously stated to be that of a grandson.

The committee have thus performed all the duties imposed on them by the House, excepting those which relate to the payment of the principal and interest of the claim under con-

sideration. On that subject they have come to the conclusions expressed in the following resolutions, which they reemmend to the House to adopt:

1st. Resolved, That the claim of the representatives of George Galphin was not a just demand against the United

tates.
2d. Resolved, That the act of Congress made it the duty of the Secretary of the Treasury to pay the principal of micelaim, and it was therefore paid "in conformity with law" and "precedent."
3d. Resolved, That the act aforesaid did not authorize the

Secretary of the Treasury to pay interest on said c aim, and its payment was not "in conformity with law or precedent." [The statement of facts contained in this report was agreed to by Mr. BURT, Mr. BRECK, Mr. CONRAD, Mr. GRINNELL, Mr. JACKSON, and Mr. KING; and disagreed to in part by

Mr. DISNEY, Mr. FEATHERSTON, and Mr. MANN. The first resolution was agreed to by Mr. BURT, Mr. DISNEY, Mr. FEATHERSTON, Mr. Jackson, and Mr. MANN; and disagreed to by Mr. Connan, Mr. BRECK, Mr. GRINNELL, and Mr. KING. The second resolution was agreed to unanimously. The third resolution was agreed to by Mr. Buar, Mr. Dis NEY, Mr. FEATHERSTON, Mr. JACKSON, and Mr. MANN; and disagreed to by Mr. BRECK, Mr. CONRAD, Mr. GRINNELL, and Mr. Kivo 1

MINORITY REPORT .- By Mr. Breck.

The undersigned, members of the Select Committee of In estigation in reference to the claim of the representatives of George Galphin, not concurring in portions of the report of the committee, and more especially in so much thereof as relates to the allowance of interest on said claim, beg leave to submit the following as embracing their views in regard to that question :

In the examination of this question it is deemed important o inquire-1st. Whether, in view of the peculiar character and merits of this claim, justice and equity required that interest should

be allowed : and, if so-24 Whether the act of Congress of August, 1848, au orized its payment. The facts of the case are so fully set forth in the report

committee that a minute recapitulation of them is no

considered necessary. Some of the most prominent and ma-It appears that, in 1773, the Creek and Cherokee Indiana ceded by treaty to Great Britain, in payment of debts due by

of the treaty and the execution of the trust, to the payment of the debts, and, should they prove insufficient, to apply them pro rata. It was also understood that Great Britain was not otherwise to be responsible for the debts, nor were the Indians—the cession being accepted by the traders in full payment and discharge of their demands.

In 1775 these claims were liquidated under the treaty, and there were found due Galabia in the state of th

there was found due Galphin, in virtue of his own original claim and of others, which he held by assignment, nine thou-sand seven hundred and ninety-one pounds fifteen shillings and five pence, lawful money of the then province of Georgia, and a certificate of the settlement and amount of his claim was issued to Galphin by authority of the Governor and Council of said province. Under the provisions of the treaty, some portion of the land was disposed of prior to the commencement of the Revolution, but no part of the proceeds was applied to the payment of Galphia's claim, nor, so far as appears, to the claim of any other trader. Such being the state of things, the Legislature of the State of Georgia, in anusry, 1780, with a view to sustain and aid her in the revolusionary struggle, passed an act recognising the treaty of 1773 in regard to these *ceded lands*, providing for the payment of the liens thereon, in favor of the traders who were friends to America, in treasury certificates, bearing six per cent. interest, and also for disposing of the lands. To show most satisfactorily that the claim of Galphin was

valid lien upon these lands, and that he was entitled to the penefit of this act, we need only refer to the testimony of a single witness, who was intimately acquainted with him, and who was a member of the Legislature which passed the act referred to. This witness was George Walton, one of the signers of the Declaration of American Independence. The llowing is an extract from his testimony :

signers of the Declaration of American Independence. The following is an extract from his testimony:

"This (January, 1780) was a period of deplorable hostility and suffering to the good people of this State; and an act was then passed having expressly for its object the more extensive settlements of that land, for the purpose of improving the interest, increasing the strength of the State, the better to oppose the ravages of the time. That the said act did further recognise the principle of the treaty and claims of the traders, and did, moreover, provide for their adjustment and payment in favor of such as were friendly to the revolution; but the act, being referred to, will speak for itself.

"The undersigned has only mentioned it because he was chairman of the committee that reported it; because he attended to its passage, and well recollects its motives, its sincerity, and intention of justice. Was George Galphin a friend of the revolution and of this State? can be the only question asked upon the claim of his representatives. And the affirmation of this question is answered by public notoriety and universal consent. Having, however, enjoyed his friendship in his lifetime—having fully known his sentiments as to the revolution, and been a frequent witness of his exertions in favor of it—he cannot resist the occasion of paying his own individual tribute of gratitude to his memory and services. Who is there that has forgotten the exercise and weight of his influence in restraining the inroads and consequent murders and ravages of the savages, especially the Creeks? Now, the undersigned is of opinion, therefore, that to dispense with the claim of this venerable man, founded as it is, is to dispense with the justice and laws of the land."

This statement was made in 1800. George Galphin died

This statement was made in 1800. George Galphin die in 1780. In 1789 his representatives petitioned the Legisla-ture of Georgia for the payment of this claim. A favorable report in regard to it was made by a committee, upon which, however, no action appears to have been taken by the Legisature. Application was afterwards, in 1791, made to Great Britain for payment, but it was refused upon the ground that Galphin had been a rebel, and, by espousing the cause of independence, had aided in depriving her of the very fund or lands upon which his claim was a charge. The claims of all the other traders, however-they having been loyalists-wer paid about that time by Great Britain, and with interest. In 1793 the Legislature of Georgia was again appealed to for payment, and the application was perseveringly renewed and continued till 1839. The justice of the claim and the meriprious character and eminent services of Galphin as a revolutionary patriot, were always admitted in the reports to the Legislature, and, with two or three exceptions, its payment recommended. Still no provision was made for it. It appears that the claim of Galphin constituted the only charge upon these ceded lands, after the claims of the other trader vere paid by the liberality of Great Britain, and that they have at all times been greatly more than adequate to pay h claim with interest. No part of his claim was ever paid till aid by the United States; nor, prior to that time, had either the United States or Georgia ever paid any thing in any way for these lands. They were disposed of by Georgia in aid of the revolution—a portion of them gratuitously to actual settlers, with a view to the defence of the country, at a period of great suffering and peril, and a portion in discharge of militabounty claims.

In view of these facts, it is believed the position may be in controvertibly assumed, that the claim of Galphin was a charge upon these ceded lands to the extent of the ascertained and quidated amount due him in 1775, and interest thereon from acquired jurisdiction and control over them by the Revolution took them, nevertheless, with the charge upon them, and, having disposed of them, was bound, in equity and good conscience, to discharge this claim, and, as the fund or land was greatly more than suffi ient to pay both the principal and in terest, that she was equitably as much bound to pay the one as the other. Such appears to have been her own sense of justice, and the view of her Legislature in the passage of the

The principle relied on, that a trustee is not responsible for sterest unless he makes interest, has not the slightest appli cation to this case; nor is the principle, without qualification, true in any case.

If a trustee refuses to pay over a trust fund, when properly demanded, and converts it to his own use, he renders himse responsible for interest, and no authority to the contrary can be found. But, in this case, whether interest was made or not is wholly immaterial, as the fund itself was sufficient to pay both principal and interest, and still leave for the trustee the lion's share.

Without pursuing this branch of the case further, we proceed to inquire whether the payment of interest was author ized by the act of Congress. The act is as follows : "That the Secretary of the Treasury be and he is hereby authorized and required to examine and adjust the claim of the late George Galphin, under the treaty made by the Go-vernor of Georgia with the Creek and Cherokee Indians, in

the year 1773, and to pay the amount which may be found due to Milledge Galphin, executor of the said George Galphin, out of any money in the treasury not otherwise appropriated. It is manifest that Congress passed this act in view of mo the important facts in regard to this claim. They are sub-

stantially set forth in the report of the committee which reported the bill to the Senate, (which is hereto annexed,) and it has been held that accounting officers may very properly refer to the report of a committee re-porting a bill when there is doubt as to the construction of the law. (Opinions of Attorneys General, 1159; also, opinion of Attorney General Johnson in the case of De Francia, 30th May, 1849.) The report in this case says : there can be no doubt as to the justice or equity of this claim, the question presents itself, Who is bound to pay it—the Go-vernment of the United States or the State of Georgia?" The onclusion was, that the former ought to pay it. The grounds elied on in support of this conclusion were— 1st. That the obligations of the treaty of 1773 upon Great

Britain devolved by reason of the revolution upon the Gov-rnment of the United States, which, having failed to discharge nem, became liable for the payment of this claim.

The report states, 2d-The report states, 2d—

"That the State of Georgia appropriated these lands, set apart as they were by the treaty of 1773, for the payment of these debts, to the public defence, and that the bounty warrants of the officers and soldiers of the Georgia line, in the revolutionary army, were located upon them. By an act of Congress, approved July 5th, 1832, the Government of the United States provided for certain claims, which Virginia had assumed, to the officers of that State engaged in the public service during the revolutionary war. It is believed that the principles of that act are applicable to the present claim, which the committee think ought to be allowed, and according report a bill for relief."

The undersigned congress in the consistence represent in this

The undersigned concur in the opinion expressed in this The undersigned concur in the opinion expressed in this report, that the principles of the act of 1832, passed for the relief of Virginia, are applicable to this case. Virginia promised a class of her revolutionary officers bialf pay; and as this liability was contracted for the benefit of all the States, it was justice that all should contribute to discharge it.

The claim in this case is admitted to have been a charge

thus appropriated, but to relieve her from the charge or in-cumbrance upon them. So far as Georgia appropriated these lands for her defence and in discharge of her liabilities to her lands for her defence and in discharge of her liabilities to her State troops, to the extent of this claim she incurred a pecuniary liability. She, to the extent of this claim, in effect appropriated Galphin's land. Congress, therefore, in the payment of it, discharges Georgia, as she did Virginia, from a pecuniary liability, incurred for the benefit of all the States. Both cases virtually, therefore, rest upon the same principles. Whether Georgia had applied to Congress to pay this cannot be material. Not does it vary the case that

laim cannot be material. Nor does it vary the case that Georgia had failed to pay it. It is fairly to be interred, however, that her failure has resulted from the conviction that the United States ought to pay it. The communication of the Governor of Georgia to President Jackson upon the subject of

his claim, placed her refusal on that ground.

But it is urged that the United States have been re

them to certain licensed Indian traders, among whom was settlement; but it is contended that, whether it did or not, has been cited, nor can any be found, unless it be under the them to certain licensed Indian traders, among whom was George Galphin, about two millions and a half of acres of very valuable land in the then colony of Georgia.

The sggregate amount of these debts was about forty five thousand pounds sterling. Great Britain accepted the trust, and undertook to dispose of the land, and to apply the proceeds, after defraying the expenses incident to the negotiation of the treaty and the execution of the trust, to the payment. But the Government has never set up such a defence, regarding it, no doubt, as alike incompatible with the case relied on of the claims of the claims. It is not perceived that the case relied on of the claims of the claims of the claims of the debts, and, should they received that the case relied on of the claims of th they might be under to Georgia in regard to it. As it is believed such a plea would not be available to an individual, under similar circunvatances, in a court of equity, it should, in the opinion of the undersigned, be held bad, if relied on by a great nation. But the Government has never set up such a defence, regarding it, no doubt, as alike incompatible with the principles of justice, and its own dignity and high character.

When the act of 1832 was passed for the relief of the State of Virginia, it does not appear that any plea of the kind was relied on, although there had been a similar settlement with that State, and a similar receipt taken. Nor does it appear that, prior to the passage of the act for the payment of this claim, during the ten years or more it was before Congress, this obduring the ten years or more it was before Congress, this obection or plea was ever urged against it. Relief in each care was evidently granted upon the broad principle of justice and

> But the obligation of the United States to pay this claim has been placed upon another and additional ground, although not contained in the report of the Senate. In the cession by Georgia to the United States, in 1802, of that extensive an valuable territory now composing the States of Alabama and Mississippi, the United States undertook, as part of the c.n. sideration, to extinguish the Indian title to all the lands within the limits of Georgia. It is conceded that the Indian title to these lands, upon which this claim was a charge, passed to Great Britain by the treaty of 1773, and that the revolu-tion vested it in Georgia. But Georgia took it in trust, as Great Britain took and held it, for the payment of the debts due the traders. To the extent of Galphin's claim he had a lien, expressly created by solemn treaty stipulations, upon the Indian title to these lands. Was the Indian title, therefore, perfect in Georgia, so long as this incumbrance upon it re-mained? It was the Indian title, no matter who held it, if it were not perfect in Georgia, which the United States were

bound to quiet and extinguish.

Could Georgia, before the claim of Galphin was paid, sa the Indian title to these lands belonged unconditionally to the Georgia, to the extent of this lien, in equity and good faith, had no claim to? Besides, the Indians, as a party to the treaty of 1773, had a just right to insist and require that its stipulations should be performed. It is submitted, then, whether the extinguishment of the lien of Galphin does not come within the spirit if not the letter of that clause in the orssion or agreement referred to. And as the nett proceeds already realized by the United States out of the sales of land obtained by that cession exceed twenty millions of dollars, Georgia would seem entitled to a very liberal construction of it. Apart from the grounds suggested as constituting an equi-

Apart from the grounds suggested as constituting an equitable obligation upon the Government for the payment of this claim, it might with some propriety be urged that the interest of Galphin in these lands having been appropriated by one member of the firm of States, virtually for the benefit of all, the whole firm should be held responsible; and that he might therefore, irrespective of any direct liability as to any one,

very properly apply to all for relief.

Such are the grounds on which this claim rested prior to the act of 1848, and the undersigned are by no means prepared to admit that they constituted no obligation upon the Sovernment to pay it; on the contrary, they are o hat, taken in connexion with the eminent services of Galphin, they present a strong claim to its justice as well as to its liberality. But even if it be conceded that the Govern-ment was under no obligation to pay it, and that its payment and been gratuitously assumed, it would not, in the opinion of the undersigned, in the slightest degree affect the question as to the payment of interest. The act of 1848, in the language of the former Secretary, (Mr. Walker,) "recognised the claim, and the United States became bound to pay it, whatever it might be."

The act referred it to the Secretary for examination, and ascertain the amount due. It was not to ascertain whether any thing was due, or whether the claim was The Senate report says, there can be no doubt as to its justice or equity." It was admitted just in 1775; and it has been so admitted always; and whenever it has been examined, the only question has been, Who ought to pay it It was not referred to ascertain the amount due in for the precise amount was stated in the Senate report. Th certificate of its liquidation at that time, and of the amount lue, was before the Senate. But it was referred as a jus and meritorious claim, that the amount due thereon at th passage of the act might be ascertained and paid.

Having shown, as we think, that the claimant was entitle to interest, did the act authorize its allowance? It is con-ceded that the accounting officer had no authority to allow it, unless the act conferred it. But it was not necessary that the authority should be conferred in express terms. It would be equally available, and equally the duty of the accounting of-ficer to act upon i', if implied. We do not understand this position to be seriously controverted; but, if it is, the authorities in support of it are numerous and conclusive. A list of cases in which the accounting officers have allowed inteest, although the acts referring them were silent in regard to it, is hereto annexed. If the expression in the opinion of Attorney General Crittenden relied on be construed to mean that interest is never allowed by an accounting officer, unless the act expressly directs its allowance, it is manifestly erroparticular class of cases to which the case in which the opin ion was given belonged. In that case there was nothing in the act or in the merits of the claim to justify the payment of

Is authority, then, in the act in this case, implied? In the opinion of the undersigned it is. In view of the Senate report, and of the peculiar character and merits of the claim the presumption may be fairly indulged that Congress passed the act in a spirit of liberality as well as justice. Should it not, therefore, be construed in the same spirit, liberally, as a remedial and not as a penal statute? The intention was to do an act of justice, long delayed, to the representatives of evolutionary patriot and public benefactor.

The naked return of the amount justly due their ancestor

in 1775 without interest, when a fund charged with i's payent, and amply sufficient for the payment of both, ha been appropriated in aid of the cause of freedom and independence, would fall far short, not only of the imperative demands of justice, but of the presumed intention of Congress. But the relief granted by the act is believed to be not thus limited. It expressly requires the payment of what-ever amount, upon examination, may be found due; and can any chancellor or judge be found who, having jurisdiction of the case, would decree the meager return of the sure of relief to which the claimant is entitled? hend no such judge can be found, and that it would be diff cult even to pack a jury who would return such a verdict. But the allowance of interest does not depend upon a liberal onstruction of the act : even the strictest construction would authorize its payment if found due. And what rule or usage of the Government has been violated by the payment of the interest on this claim? If, as we believe, the act of 1848 mplies an authority to pay it, then it has been paid according to both law and usage, and in discharge of an imperatiduty which the act imposed. It is true, as applicable to the great majority of disbursements by this and no doubt every other Government, that interest is not paid. But it is equally true that this and every other honest Government pays interest in all cases, where, upon the principles of justice and equity, interest is due. Vattel says:

"All the promises, the conventions, all the contracts of the sovereign, are naturally subjected to the same rules as those of private persons." (Vattel, lib. 2, chap. 14, p. 213.)

That eminent jurist, the lamented Justice Story, says, in Thorndike vs. United States, (1 Mason's Reports, 20:) 'If the present were a contract between private citizens, nterest upon the contract up to the time of payment; and if by law the amount due on the contract could be pleaded as a tender or a set off to a private debt, it would be a good bar in the full extent of the principal and interest due at the time of such tender or set-off. Nay, more; if the note or promise were made by a citizen to the Government, the latter might enforce its claim to the like extent. Can it make any difference in the construction of the contract, that the Government is the debtor instead of the creditor? In reason, in justice, in equity, it ought to make none, and there is not a scintilla of law to justify any. If a suit could be maintained against the Government, I do not perceive why it would not be as much the duty of the court to render judgment in such suit for the principal and the interest, in the same manner and to the same extent as it would in the case of private citizens. The Unit ed States have no prerogative to claim one law upon their own contracts as creditors, and another as debtors. If, as creditors, they are entitled to interest, as debtors they are bound also to

The opinion of Chief Justice Taney, while Attorney General, in the case of Tharp, (Op. Attorneys General, 811,) places the subject also upon the true ground. He says: "I am not aware of any statute of the United States that forbids upon lands, which Georgia had appropriated for the support of the common cause of all the States. Congress has not assumed it as a payment to Georgia for lands which she had terest to a claimant, if it should appear that interest is justly due him. As the United States are always ready to pay when a claim is presented supported by proper vouchers, it can rarely, if ever, happen that they are justly chargeable with interest; because it is the fault of the claimant if he delays presenting his claim, or does not bring forward the proper veuchers to prove it and justify its payment. But if in Major Therp's case, or in any other, the Secretary of War, upon a review of the whole evidence, should be of opinion that interest is justly due to the claimant, I think he may legally allow it." But, whatever may be the general usage of the Government

as to interest, it is not applicable to this case, as it was not originally a cleim against it. It was a claim against a third party, the State of Georgia, which the Government has assumed to pay, and to pay all that was due upon it, whatever the third party was in justice and equity bound to pay. The word due in this act means what is justly and equitably due. from any obligation to Georgia to pay this claim, by the set-tlement of all accounts between them in 1793, under the act of Congress of 1730. Such settlement was no doubt made, and some instrument equivalent to a receipt given, as alleged. It is not pretended that this claim did, in fact, enter into that

"The claim ought to be liquidated against the United States, exactly on the principles that it would be liquidated against the Indians; and it is believed that a claim of interest against a nation of Indians, under circumstances like these, would be unprecedented."

The Attorney General decided against the payment of in The Attorney General decided sgainst the payment of interest; and assigns, among other reasons, that the property, a return of which was claimed, had been assessed, on an average, at nearly double prices; that the claims were in the nature of unliquidated damages, upon which, as a general rule of law, interest was not allowed: that the principles of equity did not call for the allowance of interest—so far from it, that they forbid it. Under circumstances like these it is believed it would not only be unprecedented to charge a nation of Indians, but any other nation, with interest. But the case seems to be relied on as authority to show that, because it was held unprecedented, under the circumstances of that case, for a nation of Indians to be charged with interest, therefore Georgia and the United States were not bound to pay interest. Georgia and the United States were not bound to pay interest on Galphin's claim. The case would not have been so particularly noticed, were it not relied on as a prominent authori-ty why interest should not have been allowed in the present

ty why interest should not have been allowed in the present case. But, before leaving it, we must be permitted to say, as Georgia claimed interest against the Indians, under the circumstances of that case, she ought to be estopped from denying the claim of Galphin to interest in this case; and as the United States have thought proper to step into the shoes of Georgia, they should be subject to a similar estoppel.

The great antiquity of this claim will be found entitled to no weight as an objection against it, when it is understood that every material fact, upon which its justice depends, is incontrovertibly established. It has, in fact, for three fourths of a century, constituted a part of the history of the country, and there is little hazard in the prediction that it is destined to give a more extended notoriety to the name of the claimto give a more extended notoriety to the name of the claim ant than it would otherwise probably ever have obtained.

The amount of the claim, although large, constituted no reason against its payment. In regard to the payment of the principal, it is conceded on all sides that it has been paid in conformity to law and precedent. In this all the accounting officers of the late as well as the present Administration concur; but different opinions are entertained in regard to the payment of the interest.

The auditor to whom the former Secretary of the Treasury

referred the claim reported in favor of paying the interest as well as the principal. The comptroller reported against the interest. Mr. Walker directed the payment of the principal; but his impression being against the payment of the principal; but his impression being against the payment of interest, and not having time to examine the subject, he left the question as to the interest an undecided, an open question for his successor. In his testimony, however, before the committee, he says, if the claimant had presented to him such an argument as that of the opinion of the Attorney General, he should have referred the case to the Attorney General, and b

guided, he thinks, by his opinion.

The present Secretary referred the claim to the comptroller, who decided against the payment of the interest. He then requested the opinion of the Attorney General; and in pursu-

requested the opinion of the Attorney General; and in pursuance of his opinion—which indicates a thorough investigation of the case, and fully sustains the deservedly high character of that distinguished jurist—directed the interest to be paid.

Whether the Secretary was required to pay the interest was a question of law, upon which it was the duty of the Attorney General, when requested, to give his opinion. The law has constituted the Attorney General the legal adviser of the Executive Department of the Government; and rarely, if ever, in its history, has his opinion, when sought, been disregarded. In the adjustment and payment of this claim regarded. In the adjustment and payment of this claim, regarded. In the adjustment and payment of this claim, therefore, it appears that all the requisitions and forms of law have been complied with. The proper officer has decided the law, and payment has been made accordingly. The revision of his opinion or decision by a committee of the House of Representatives, is believed to be without a precedent in the history of the Government. The committee being of opinion, however, that the resolution of the House required the merits of this claim, and whether its payment had been made in conformity to law, and precedent, to be investigated, the underformity to law and precedent, to be investigated, the undersigned, as members of the committee, after a laborious exami nation and full consideration, have come to the conclusion

1st. That the claim was just, and that the Government was under an equitable obligation to pay it. 2d. That the interest, as well as the principal, have been paid in conformity to law and precedent. The undersigned, as appears from the report of the com

mittee, fully concur in the statement of facts therein. DANIEL BRECK, JAMES G. KING. JOSEPH GRINNELL.

OPINION OF THE ATTORNEY GENERAL.

ATTORNEY GENERAL'S OFFICE,

FEBRUARY 2, 1850. Sin: The question you have submitted to me upon the claim of the executor of George Galphin, under the act of the 14th of August, 1848, I have examined with a'l the care due to the circumstances attending it, its supposed intrinsic difficulty, and the large amount which it involves.

The opinion I have formed I am clear in; and, although my official engagements in the Supreme Court will not enable me to give my reasons at length, I do not feel at liberty to refuse the request of the claimant that I would state to you the opinion itself. .

The question is whether interest should be allowed on the claim; and, if it should be, from what period?

First. Should it be allowed? I think it should. The material facts are these : George Galphin, the testator of the claimant, antecedent to 1773, was an authorized trader among the Creek and Cherokee Indians in the colony of Georgia. In that capacity, and as the ssignee of the claims of other legal traders, he was a creditor of the Indians for a large amount. In 1773, under instruc-tion from the mother country, the Governor of the colony, Sir James Wright, negotiated a treaty with the Indians, by which they ceded a large extent of territory, now constituting, it is believed, two entire counties of the State of Georgia, (Wilks and Lincoln,) and part of two others, (Oglethorpe and Green,) and, by an express stipulation, the debts due by the Indians to the traders were secured to be paid from the preceeds of the lands.

The treaty was ratified by England in 1775, and a commissioner duly constituted to liquidate the payment of these debts out of the funds so by the treaty provided for that end. Under this authority Galphin's claim, and others of like haracter, were ascertained, and the amount due to him found to be £9,791 15s 5d. sterling; and for this sum be obtained a proper certificate.

The revolutionary war occurring soon afterwards, and end-

The revolutionary war occurring soon afterwards, and ending in the independence of the colonies, the territory ceded became the property of Georgia. All the debts due the traders, provided for by the treaty, except Galphin's, were afterwards paid, principal and interest, by the British Government, and his excepted only because of his patriotic adherence to this country during the war. The others, who were loyal to England, were fully indemnified by that Government, under a just and high sense of the obligation imposed upon her by the treaty, although, as to her, the consideration as to the payment of the debts in fact feiled by the loss of the entire territory saided. But as the fault was here, and the traders were tory ceded: But as the fault was hers, and the traders were innocent as to that result, and did all they could as loyal sub-jects to avert it, she stood between them and harm, and fully paid their claims. That Galphin's would also have been paid, had he, following the fortunes of England, been regardless of the duty which patriotism, in such an emergency,

emanded, it is impossible to doubt.

The loss of his claim is, therefore to be referred exclusive ly to a cause which should commend it to the favor of the merican Government, and induce the Government to be, if necessary, even generous to the claimant, in-tend of causing it to apply to the claim a narrow rule of responsibility, often in its effect placing its justice upon a level far below that which, by the law, as between man and man, is daily declaired to be the proper and only level of justice.

These lands were, to a considerable extent, disposed of by

Georgis, in bounties to the soldiers who schieved her in endence, or given by her to settlers, to guard her on her fronier from Indian outrages.

From time to time the claim was demanded of Georgia, and although its merits were never denied, but on the trary in various ways admitted, it was never paid.

In 1802 a large tract of country, now comp ising the States of Alabama and Mississippi, was ceded by Georgia to the United States; but, until the law of August, 1848, no provision was made by the United States for the liquidation of the debt. Since that act it is now too late to dispute the justice of the degree. tice of the demand. That question was settled by the law itself, looking only to its terms, the memorial which prayed the relief, and the report of the committee who reported the bill; and, if not, is now put beyond all doubt, if any ever existed, by the decision of your predecessor, Mr. Walker, in paying the principal of the debt.

As I have already said, I am of opinion that interest should reasons are brit fly these:
1. The effect of the treaty of 1773 was to charge the lands

themselves with the payment of the debt, principal and